

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

-vs-

D-4 CLIFFORD FREITAS,
Defendant.

Hon. Robert H. Cleland

No. 16-20732

Sentencing Date: May 31, 2018

**GOVERNMENT'S COMBINED SENTENCING MEMORANDUM
AND MOTION FOR DOWNWARD DEPARTURE**

The United States of America submits the following memorandum and motion for downward departure in connection with the sentencing of defendant Clifford Freitas on May 31, 2018.

I. Statutory Factors

As the court is aware, Title 18, United States Code, Section 3553(a) requires the court to impose a sentence that is sufficient but not greater than necessary to comply with the purposes set forth in that section, based on the factors discussed below.

A. The Nature and Circumstances of the Offense

Clifford Freitas was elected to the Macomb Township Board of Trustees in November 2012. In June 2014, Chuck Rizzo hired Freitas as a project manager for

Rizzo Property Management, a subsidiary of Rizzo Environmental Services (RES).

Freitas performed actual work for his pay at this position.

In July 2015, Macomb Township put out a request for proposal (RFP) for a single waste hauler and disposal contract. Rizzo agreed that he would pay Freitas a bonus of \$7,500 for using his official position to help win the contract. Wiretap interceptions corroborate that Freitas did, in fact, attempt to assist Rizzo in winning the contract. On August 24, 2015, Freitas shared inside information with Rizzo about the bid process, including providing him with a bid price of \$13.25 per month per resident, which Freitas stated was unbeatable by the competing bidders.

In another intercepted call on September 8, 2015, Freitas assured Rizzo that the vote on the contract was still scheduled for the following day. Freitas told Rizzo that he was going to try to see trustee Dino Bucci later that evening to get additional information for Rizzo.

On September 14, 2015, the Macomb Township trash contract was awarded to RES. Freitas abstained in the vote to award the contract to RES, though the vote was unanimous, 6-0. According to financial information provided by the current owner, GFL, the contract represented \$16 million in gross revenue to RES, with a net profit of 6.8%.

Chuck Rizzo promised Freitas a \$7,500 bonus if RES won the trash contract. This is corroborated by an email from Rizzo that occurred three days after RES

won the contract. On September 17, 2015, Rizzo sent an email to the RES controller telling him that RES would “loan” Freitas \$7,500 and then deduct it back from a future bonus.

In addition to Freitas accepting a bribe from Rizzo upon the award of the trash contract, Freitas also agreed to accept a raise in his weekly salary and a one-time bonus of \$35,000, once Freitas got the township to put the individual trash bills on the township’s water bill. In an October 2, 2015 email from Rizzo to Freitas’ boss, Rizzo told Freitas’ boss to tell Freitas that Freitas will receive a raise to \$1,700 per week and a one-time \$35,000 bonus if Freitas is able to get the township to do the trash billing.

B. History and Characteristics of the Defendant

Freitas has no prior criminal convictions. He is a former member of the United States Air Force, where he served three years and was honorably discharged. From his statements contained in the Presentence Report, as well as statements he made in court during his guilty plea hearing, it appears to the government that Freitas is genuinely remorseful. It should be noted, too, that the defendant was cooperative with law enforcement upon his arrest, and promptly provided a complete and truthful statement of his actions to the government in a lengthy proffer.

C. Seriousness of the Offense, Promoting Respect for the Law, Providing Just Punishment

As an elected trustee of Macomb Township, the defendant agreed to accept two bribes totaling over \$42,000 in connection with a \$16 million trash contract. His criminal conduct is serious. Therefore, his sentence should reflect the seriousness of his crimes and adequately punish him.

D. Providing Adequate Deterrence

The government's wide-ranging investigation of Macomb County has made it abundantly clear that there existed a culture of corruption and pay-to-play government in multiple municipalities there. And the 20 contractors and public officials charged thus far are likely to have company in the near future. Therefore, a less-than-substantial sentence for a corrupted official like Freitas would undermine the deterrent effect for those tempted to engage in similar conduct.

E. Protection of the Public from Further Crimes of the Defendant

Given Freitas' lack of criminal history, his acceptance of responsibility and his sincere remorse, the public should be adequately protected from further crimes by Freitas should the court impose the sentence recommended by the government.

F. Kinds of Sentences Contemplated by the Sentencing Guidelines

The government concurs with the factual findings and guidelines calculations contained in the Presentence Investigation Report (PSIR), with the exception that the government recommends a 50% downward departure be applied

pursuant to Section 5K2.0 based on the fact that Freitas recused himself from voting on the trash contract. The government recommends that defendant's guideline range be 30 months.

II. 5K1.1 Motion for Downward Departure

The United States respectfully moves the Court, pursuant to Section 5K1.1 of the Sentencing Guidelines, to sentence the defendant below the guideline range due to his substantial assistance. In support of this motion, the government states as follows:

When initially arrested on a criminal complaint on October 25, 2016, Freitas agreed to submit to an interview by the FBI without an attorney. At that time, Freitas admitted wrongdoing in relation to the Macomb trash contract and RES. Freitas promptly obtained counsel and proffered on January 20, 2017. His proffer was extensive, as he detailed not only his bribery activities in conjunction with Chuck Rizzo and RES, but detailed numerous embezzlement schemes that were being perpetrated by Rizzo, Rizzo's father (Charles P. Rizzo), Quinton Ramanauskas, and other employees of RES. Freitas also provided information involving other corruption targets in Macomb Township unrelated to Rizzo.

Significantly, Freitas agreed to cooperate and testify against Chuck Rizzo, Charles P. Rizzo, Ramanauskas and others. Unfortunately, he was not in a position to provide proactive cooperation, as he had been publicly arrested and charged by

this time. As a result, at least in part, of his cooperation, other defendants such as Chuck Rizzo, Charles P. Rizzo and Quintin Ramanauskas, pleaded guilty to bribery and fraud charges.

III. Conclusion

Given his substantial assistance to the government as outlined above, the government recommends a 33% reduction from defendant's 30-month guideline range, resulting in a sentence of 20 months imprisonment.

Respectfully submitted,

MATTHEW SCHNEIDER
United States Attorney

s/R. MICHAEL BULLOTTA
Assistant United States Attorney

s/DAVID A. GARDEY
Assistant United States Attorney

Dated: May 17, 2018

CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2018, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

Daniel Garon
Attorney for Clifford Freitas

s/R. MICHAEL BULLOTTA
Assistant U. S. Attorney

Dated: May 17, 2018